



[10191/2152]

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant(s) : Matthias HESSLING et al.
For : METHOD, DATA FORMAT, ENCODING
DEVICE, DECODING DEVICE AND SYSTEM
U.S. Application Serial No. : 10/031,499
Filed : June 14, 2002
Examiner : Cindy NGUYEN
Group Art Unit : 2161
Confirmation No. : 6405

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on:

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Date: September 24, 2010

Reg. No. 36,197

Signature: _____

Jong H. Lee

**APPELLANTS' APPEAL BRIEF
UNDER 37 C.F.R. § 41.37**

S I R :

Applicants electronically filed a Notice of Appeal dated May 24, 2010, appealing from the Final Office Action dated November 25, 2009, in which claims 19-37 of the above-identified application were finally rejected. This Appeal Brief is being submitted by Applicants in support of their appeal.

09/29/2010 HDESTA1 00000039 110600 10031499
01 FC:1402 540.00 DA

I. REAL PARTY IN INTEREST

The real party in interest in the present appeal is Robert Bosch GmbH of Stuttgart, Germany. Robert Bosch GmbH is the assignee of the entire right, title, and interest in the present application.

II. RELATED APPEALS AND INTERFERENCES

No appeal or interference which will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the pending appeal is known to exist to the undersigned attorney or is believed by the undersigned attorney to be known to exist to Applicants.

III. STATUS OF CLAIMS

Claims 19-37 are currently pending in the present application. Claims 19-37 stand rejected and are being appealed. Claims 1-18 have been canceled. Among the appealed claims, claims 19, 30, 31, 33 and 36 are independent.

IV. STATUS OF AMENDMENTS

No Amendment has been made subsequent to the final Rejection mailed on November 25, 2009.

V. SUMMARY OF CLAIMED SUBJECT MATTER

With respect to independent claim 19, the present invention provides a method for at least one of electronically encoding, decoding and transmitting location information of objects for a map, the method including:

at least one of electronically encoding using an encoding device (Fig. 1, element 20; Substitute Specification, p. 8, l. 24-29), decoding using a decoding device (Fig. 1, element 60; p. 7, l. 4-8) and transmitting an electronic data packet (Fig. 4, packet 400) using a transmitting device (Fig. 3, elements 6, 7; p. 9, l. 20-30), the data packet containing location information of at least one object for a map (p. 9, l. 32 – p. 10, l. 26), the location information of at least one object including locating information (Fig. 4, element 450) and description information (Fig. 4, element 470), wherein the data packet separately contains the locating information and the

description information (p. 12, l. 6-9), and includes assignment information (Fig. 4, element 460) assigning at least a part of the locating information to at least a part of the description information (p. 14, l. 31 – p. 15, l. 21).

With respect to independent claim 30, the present invention provides a method of at least one of electronically encoding, decoding and transmitting location information of objects for a map, the method including:

at at least one of an encoding device (Fig. 1, element 20; p. 8, l. 24-29), a decoding device (Fig. 1, element 60; p. 7, l. 4-8) and a transmitting device (Fig. 3, elements 6, 7; p. 9, l. 20-30), providing an electronic data packet (Fig. 4, packet 400) including location information of at least one object for a map (p. 9, l. 32 – p. 10, l. 26), wherein the location information of at least one object includes locating information (Fig. 4, element 450) and description information (Fig. 4, element 470), wherein the data packet separately contains the locating information and the description information (p. 12, l. 6-9), and includes assignment information (Fig. 4, element 460) assigning at least a part of the locating information to at least a part of the description information (p. 14, l. 31 – p. 15, l. 21).

With respect to independent claim 31, the present invention provides an electronic encoding device for encoding location information of objects for a map, the encoding device including:

an arrangement (Fig. 1, element 20; p. 8, l. 24-29; Fig. 3, elements 6, 7; p. 9, l. 20 – p. 10, l. 12; p. 11, l. 1-15) to electronically encode a data packet (Fig. 4, packet 400) including location information of at least one object for a map (p. 9, l. 32 – p. 10, l. 26), the location information including locating information (Fig. 4, element 450) and description information (Fig. 4, element 470), wherein the data packet separately contains the locating information and the description information (p. 12, l. 6-9), and includes assignment information (Fig. 4, element 460) assigning at least a part of the locating information to at least a part of the description information (p. 14, l. 31 – p. 15, l. 21).

With respect to independent claim 33, the present invention provides an electronic decoding device for decoding location information of objects for a map, the decoding device including:

an arrangement (Fig. 1, element 60; p. 7, l. 4-8; ; Fig. 3, elements 6, 7; p. 9, l. 20-30; p. 11, l. 1-15) to electronically decode an electronic data packet (Fig. 4, packet 400) containing location information of at least one object for a map (p. 9, l. 32 – p. 10, l. 26), the location information including locating information (Fig. 4, element 450) and description information (Fig. 4, element 470), wherein the data packet separately contains the locating information and the description information (p. 12, l. 6-9), and includes assignment information (Fig. 4, element 460) assigning at least a part of the locating information to at least a part of the description information (p. 14, l. 31 – p. 15, l. 21).

With respect to independent claim 36, the present invention provides an electronic system for transmitting location information, the system including:

an arrangement (Fig. 3, elements 6, 7; p. 9, l. 20-30) to electronically transmit an electronic data packet (Fig. 4, packet 400) using a transmitting device, the data packet containing location information of at least one object for a map (p. 9, l. 32 – p. 10, l. 26), the location information including locating information (Fig. 4, element 450) and description information (Fig. 4, element 470), wherein the data packet separately contains the locating information and the description information (p. 12, l. 6-9), and includes assignment information (Fig. 4, element 460) assigning at least a part of the locating information to at least a part of the description information (p. 14, l. 31 – p. 15, l. 21).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The following ground of rejection is presented for review on appeal in this case:

(A) Whether pending claims 19-37 are anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,438,561 ("Israni").

VII. ARGUMENTS

A. Rejection of Claims 19-37 under 35 U.S.C. § 102(e)

Claims 19-37 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,438,561 (“Israni”). It is respectfully submitted that the claims 19-37 are not anticipated by Israni for at least the following reasons.

To anticipate a claim under § 102(e), a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged exactly as in the claim. Lindeman, 730 F.2d 1458 (Emphasis added). Additionally, not only must each of the claim limitations be identically disclosed, an anticipatory reference must also *enable* a person having ordinary skill in the art to practice the claimed invention, namely the inventions of the rejected claims, as discussed above. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claim 19 recites, in relevant parts, “transmitting an electronic data packet using a transmitting device, the data packet containing location information of at least one object for a map, the location information of at least one object including locating information and description information, wherein the data packet separately contains the locating information and the description information, and includes assignment information assigning at least a part of the locating information to at least a part of the description information.” As presented, claim 19 provides that the data packet includes locating information, description information and assignment information; the assignment information assigns at least a part of the locating information to at least a part of the description information. Claims 30, 31, 33 and 36 recite substantially similar limitations as the above-recited limitations of claim 19.

The Examiner contends in the Final Office Action that Israni discloses the above-recited claimed features in the following manner: (i) the traffic message is equivalent to the claimed “data packet”; (ii) claimed “locating information” is taught in col. 5, l. 33-35 (“location component 50(2) [which] includes a reference number that identifies the location of traffic problem 50(1)(1)”; (iii) claimed “description information” is taught in col. 5, l. 28-31 (“event description component 50(1) includes data that describe a traffic problem 50(1)(1)”; and (iv) claimed **“assignment information”** assigning the locating information to the description information is taught in col. 5, l. 54-60; col. 13, l. 35-45; col. 14, l. 5-11. However, nothing in the sections of Israni cited by the Examiner actually suggests the claimed “assignment information” assigning the locating information to the description information, as explained in detail below.

First, col. 5, l. 54-60 of Israni merely indicate a “location table number 51(2) [which] is a unique number assigned to each separate location table,” which has absolutely nothing to do with assigning the location component 50(2) (the Examiner’s alleged equivalent of the “locating information”) to event description component 50(1) (the Examiner’s alleged equivalent of the “description information”). Second, col. 13, l. 35-45 of Israni merely indicates that the traffic broadcast system may assign reference codes “to locations in the geographic region about which the traffic messages relate,” which disclosure has nothing to do with assigning the location component 50(2) (the Examiner’s alleged equivalent of the “locating information”) to event description component 50(1) (the Examiner’s alleged equivalent of the “description information”). Third, col. 14, l. 5-11 of Israni merely indicate that selected road interchange locations have predefined location numbers which are assigned by the authorities in charge of the RDS/TMC broadcast system, which disclosure has nothing to do with assigning the location component 50(2) (the Examiner’s alleged equivalent of the “locating information”) to event description component 50(1) (the Examiner’s alleged equivalent of the “description information”). Therefore, as can be seen from above, the sections of Israni cited by the Examiner in support of the rejection simply do not suggest anything about the claimed “assignment information” assigning the locating information to the description information, let alone that any such “assignment information” is contained in the “data packet” (i.e., the traffic message, according to the Examiner).

In addition to the above, the Examiner further contends in the “Response to Arguments” section of the Final Office Action (as well as in the Advisory Action of May 25, 2010) that “the navigation system relates the data in the traffic messages to the data in the

geographic database,” and the Examiner appears to be implicitly contending that this “relating” of the data in the traffic messages to the data in the geographic database is somehow relevant to the claimed limitations at issue. However, even if one assumes for the sake of argument that the navigation system in Israni somehow relates the data in the traffic messages to the data in the geographic database, this alleged “relating” has no relevance to the claimed limitations at issue, i.e., whether the data packet includes assignment information which assigns at least a part of the locating information contained in the data packet to at least a part of the description information contained in the data packet. Applying the interpretation asserted by the Examiner regarding the equivalence between the disclosed elements of Israni and the claimed elements, there is simply no basis to contend that the traffic message of Israni contains an “assignment information” assigning the location component 50(2) (the Examiner’s alleged equivalent of the “locating information”) to event description component 50(1) (the Examiner’s alleged equivalent of the “description information”).

To the extent the Examiner summarily concludes in the “Response to Arguments” section of the Final Office Action (as well as in the Advisory Action of May 25, 2010) that “Israni teaches elements as required in claim 19” since the location component 50(2) includes a reference number identifying the location of the traffic problem type described in the data component 50(1)(1), the Examiner appears to be implicitly contending that the locating information is 50(2) is somehow associated with, or connected to, the event description 50(1) because the locating information 50(2) specifies the location of the traffic problem type described in the subcomponent 50(1)(1) contained within the event description 50(1). However, any connection between the location component 50(2) and the event description component 50(1) arises solely from the fact that these components are contained within the same message. In contrast to the present claimed invention, Israni clearly fails to teach or suggest an inclusion of explicit and distinct assignment information within the traffic message to explicitly assign the locating information to the description information. To the extent the Examiner is implicitly arguing that the claimed “assignment information” limitation may be satisfied by merely including the location component 50(2) and the event description component 50(1) of Israni in the same traffic message, this interpretation is not supported by the application of the well-established interpretation rule. It is a fundamental rule of claim interpretation that the claims should be given “the broadest reasonable interpretation” that is consistent with the specification, (see M.P.E.P. 2111, citing In re Hyatt, 211 F.3d 1367 (Fed. Cir. 2000), and In re Cartwright, 165 F.3d 1353 (Fed. Cir. 1999)), and the present specification

clearly describes the “assignment information” as being embodied in an explicit assignment data component 460 distinct from the locating information 450 and the description information 470 (see Fig. 4; p. 14, l. 31 – p. 15, l. 21). Given the explicit and unequivocal disclosure in the present specification requiring an explicit and distinct assignment data component, one of ordinary skill in the art would not interpret the present claimed “assignment information” as being satisfied by merely including the location component 50(2) and the event description component 50(1) as disclosed in Israni.

For at least the foregoing reasons, claims 19, 30, 31, 33 and 36, as well as their dependent claims 20-29, 32, 34, 35 and 37, are not anticipated by Israni. Reversal of the anticipation rejection is requested.

VIII. CONCLUSION

For the foregoing reasons, it is respectfully submitted that the final rejection of claims 19-37 should be reversed.

Claims Appendix, Evidence Appendix and Related Proceedings Appendix sections are found in the attached pages.

Respectfully submitted,

KENYON & KENYON LLP



(R. No.
36,197)

Dated: September 24, 2010

by: JONG LEE for Gerard Messina
Gerard A. Messina
Reg. No. 35,952
One Broadway
New York, New York 10004
(212) 425-7200

**APPENDIX TO APPELLANTS' APPEAL BRIEF
UNDER 37 C.F.R. § 41.37**

CLAIMS APPENDIX

The claims involved in this appeal, claims 19-37, in their current form after entry of all amendments presented during the course of prosecution, are set forth below:

19. A method for at least one of electronically encoding, decoding and transmitting location information of objects for a map, the method comprising:

at least one of electronically encoding using an encoding device, decoding using a decoding device and transmitting an electronic data packet using a transmitting device, the data packet containing location information of at least one object for a map, the location information of at least one object including locating information and description information, wherein the data packet separately contains the locating information and the description information, and includes assignment information assigning at least a part of the locating information to at least a part of the description information.

20. The method of claim 19, wherein the locating information includes at least one first coordinate chain including at least one first point.

21. The method of claim 20, wherein the at least one first coordinate chain contains a second point, the at least one first point of the at least one first coordinate chain is specified in absolute coordinates and the second point of the at least one first coordinate chain is specified in relative coordinates, with respect to one of a centroid coordinate and the at least one first point of the at least one first coordinate chain.

22. The method of claim 21, wherein the at least one first point of the at least one first coordinate chain is interpreted in a defined direction by the second point of the at least one first coordinate chain.

23. The method of claim 19, wherein the description information includes at least one first attribute field.

24. The method of claim 23, wherein the at least one first attribute field includes a type specification and description data, and the description data is determined by the type specification with respect to at least one of a name, an accuracy, a direction, a time, a point of interest and a physical link.

25. The method of claim 23, wherein the assignment information includes at least one first assignment entry, and the at least one first attribute field and the at least one first point of the at least one first coordinate chain are assigned to each other by the at least one first assignment entry.

26. The method of claim 25, wherein the at least one first assignment entry includes a reference to the at least one first attribute field and a reference to the at least one first point of the at least one first coordinate chain.

27. The method of claim 25, wherein the at least one first assignment entry includes one of (i) a reference to the at least one first attribute field and a reference to a plurality of points of coordinate chains of the locating information, and (ii) a reference to a plurality of attribute fields and a reference to the at least one first point of the at least one first coordinate chain.

28. The method of claim 19, wherein the data packet includes a header part of the location information and a data part of the location information.

29. The method of claim 28, wherein the header part includes structure information specifying a data structure of the location information, and includes interpreting instructions specifying a purpose of the location information.

30. A method of at least one of electronically encoding, decoding and transmitting location information of objects for a map, the method comprising:

at least one of an encoding device, a decoding device and a transmitting device, providing an electronic data packet including location information of at least one object for a

map, wherein the location information of at least one object includes locating information and description information, wherein the data packet separately contains the locating information and the description information, and includes assignment information assigning at least a part of the locating information to at least a part of the description information.

31. An electronic encoding device for encoding location information of objects for a map, the encoding device comprising:

an arrangement to electronically encode a data packet including location information of at least one object for a map, the location information including locating information and description information, wherein the data packet separately contains the locating information and the description information, and includes assignment information assigning at least a part of the locating information to at least a part of the description information.

32. The encoding device of claim 31, wherein the locating information includes at least one first coordinate chain that includes at least one first point, and a definition of the at least one first point of the at least one first coordinate chain is definable as a function of a location information query.

33. An electronic decoding device for decoding location information of objects for a map, the decoding device comprising:

an arrangement to electronically decode an electronic data packet containing location information of at least one object for a map, the location information including locating information and description information, wherein the data packet separately contains the locating information and the description information, and includes assignment information assigning at least a part of the locating information to at least a part of the description information.

34. The decoding device of claim 33, wherein the location information is at least partially correlatable with data of a first data base associated with the decoding device.

35. The decoding device of claim 34, wherein at least one of location information that is not contained in the first data base and location information that is not correlated with data of the first data base is stored in a second data base associated with the decoding device.

36. An electronic system for transmitting location information, the system comprising:
an arrangement to electronically transmit an electronic data packet using a transmitting device, the data packet containing location information of at least one object for a map, the location information including locating information and description information, wherein the data packet separately contains the locating information and the description information and includes assignment information assigning at least a part of the locating information to at least a part of the description information.

37. The method of claim 20, wherein the at least one first point includes a geographical point.

EVIDENCE APPENDIX

In the present application, there has been no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 or 1.132, or other evidence entered by the Examiner and relied upon by Appellants in the present appeal.

RELATED PROCEEDINGS APPENDIX

No appeal or interference which will directly affect, or be directly affected by, or have a bearing on, the Board's decision in the pending appeal is known to exist.